



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, 4 नवम्बर, 1974/13 कार्तिक, 1896

GOVERNMENT OF HIMACHAL PRADESH WELFARE DEPARTMENT NOTIFICATION

Simla-171002, the 31st August, 1974

No. 2-33/72-LWP(Wel.).—The Governor, Himachal Pradesh is pleased to make the following rules for providing legal aid to the members of Scheduled Castes and Scheduled Tribes in Himachal Pradesh:—

THE HIMACHAL PRADESH LEGAL AID TO SCHEDULED CASTES AND SCHEDULED TRIBES RULES, 1974

1. *Short title.*—These rules shall be called the Himachal Pradesh Legal Aid to Scheduled Castes and Tribes Rules, 1974.

2. *Scope and commencement.*—These rules shall extend to the whole of Himachal Pradesh and shall come into force with effect from the date of the publication of these rules in the Official Gazette of the State Government.

3. *Definitions.*—In these rules, unless the context otherwise requires:—

- (a) "Annexure" means annexure appended to these rules;
- (b) "Director" means the Director of Himachal Pradesh;
- (c) "District Committee" means the District Welfare Committee;
- (d) "form" means a form attached to these rules;
- (e) "Government" means the Government of Himachal Pradesh;
- (f) "land" means land, including the sites of building or other structures raised on land being utilized or has been left for agricultural purposes or purpose subservient to agriculture;
- (g) "legal aid" means financial assistance expenses in connection with the payment of counsel fee, court fee, process fee, diet money payable to witnesses and other incidental charges connected with the case;
- (h) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him.

4. *Admissibility and purpose.*—The members of Scheduled Castes and Scheduled Tribes shall be eligible for the grant of aid for defending and institution such class or cases as are specified below:—

- (a) cases of ejectment from land and other immovable property;
- (b) cases of recovery of rent by land-lords;
- (c) cases pertaining to correction of khasra, girdawaries by land-lords;
- (d) criminal cases instituted on private complaints including security proceedings under chapter VIII of the Code of Criminal Procedure, 1898 instituted on such complaints;
- (e) cases pertaining to deposit of rent with revenue officer, when a landlord refuses to receive or grant a receipt for any rent payable in money when tendered to him or when there is any debt as to the person entitled to receive rent payable in money;
- (f) cases involving a claim to a right or way or usage;
- (g) cases involving forcible removal of dung heaps;
- (h) cases involving a claim for compensation for harassment caused by Non-Scheduled Castes and Non-Scheduled Tribes on account of observance of untouchability, denial of drinking water or denial of entry into a temple or hostel etc.
- (i) litigation against debt;
- (j) cases of beggar *i.e.* forcible labour without any remuneration;

(k) any other cases, wherein any member belonging to Scheduled Castes and Tribes is a victim of the oppression of Non-Scheduled Castes and Non-Scheduled Tribes provided such cases are recommended by the District Welfare Committee.

5. *Application for grant of legal aid.*—A member of the Scheduled Castes or Scheduled Tribes, who are eligible for the grant of aid, under these rules, may make an application to the District Welfare Officer, in whose jurisdiction he resides for the grant of such aid on the form at Annexure "A":

Provided that such aid shall be limited to one case only in a calendar year:

Provided further that the defending or filing of appeals in higher courts, in the same case shall be considered as one case and for that purpose separate legal aid would be permissible.

6. *Procedure to be observed.*—The District Welfare Officer to whom an application prescribed in Annexure "A" is made under rule 5 shall immediately on receipt of such an application examine the question of grant of aid to the applicant. If in his opinion it is a fit case for the grant of such aid, the District Welfare Officer shall satisfy himself that the applicant is poor according to rule 13 and also that the applicant has a *prima facie* case. The District Welfare Officer may consult the Government Advocate or the Public Prosecutor for this purpose.

7. On the receipt of application for the grant of legal aid, the District Welfare Officer concerned shall scrutinise the application, draw up a list and place it before the District Welfare Committee constituted by the Government from time to time for consideration and approval. The District Welfare Committee keeping in view the funds available for the District during that particular year shall recommend most deserving cases in order of priority for sanction of this aid. The District Welfare Committee shall keep in mind that the benefit goes to the poorest and deserving persons among the Scheduled Castes and Scheduled Tribes as per the criteria laid down below.

8. *Criteria.*—The economic criterion shall be adopted for fixation of priority and persons whose income is less than Rs. 3,600 per annum shall be given first preference. Only the cases so approved by the District Welfare Committee shall be forwarded by the District Welfare Officer to the Director of Welfare for approval and sanction:

Provided the Government may in very exceptional cases call for the list and for reasons to be recorded in writing order the deletion or any name from the list so approved by the District Welfare Committee and include in place thereof any other name which in its opinion may be more deserving,

Copy of the sanction orders so issued shall be endorsed to the Audit as well as to the Administrative Department.

9. The expenditure will be debitable under the following heads of accounts:—

- | | |
|---------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i) In respect of Scheduled Castes Schemes. | “258 Social Security and Welfare-C-Welfare of Scheduled Castes, Scheduled Tribes and other Backward Classes (b) Welfare of Scheduled Castes (Plan) State Sector”. |
| (ii) In respect of Scheduled Tribes. | “286 Social Security and Welfare-C-Welfare of Scheduled Castes, Scheduled Tribes and other Backward Classes (d) Welfare of Scheduled Tribes (Plan) State Sector”. |

10. *Execution of agreement.*—In all cases in which aid is sanctioned to any person under these rules, an agreement prescribed as Annexure ‘B’ in writing shall be taken from such person that any sum recovered by such person from the other party as compensation damages or costs, shall be paid by him to Government in reimbursement of the costs incurred by it and only the balance, if any, remaining thereafter, shall be retained by such person.

11. The amount paid shall be provided by District Welfare Officer to whom an application for such aid was made, in consultation with the Counsel conducting the case.

12. The District Welfare Officer shall on or before the 5th of each month send to the Director a report of the details of expenses incurred by him under these rules and ensure that in no circumstances the expenses shall exceed the funds allotted to his District.

13. No aid shall be allowed to a person owning or cultivating 10 acres or more of cultivable land or whose income exceeds Rs. 3,000 per annum. Even in this income group the persons having an income ceiling of Rs. 1,500 per annum or below will be given preferential treatment and the District Welfare Officer shall see that the aid given is absolutely necessary in the interest of justice.

14. *Scale of fees.*—The Counsel engaged under these rules shall be entitled to the payment of fees in accordance with rules 15 and 18.

15. In a criminal case before the Session Court, the counsel shall be entitled to a fee of Rs. 16 per day of effective appearance subject to a maximum of Rs. 100 per case in the aggregate. In criminal appeals, original petitions and revision petitions before the High Courts the fee to be paid to the counsel shall be fixed by the High Court, at its discretion, subject to a maximum of

Rs. 100 per case, or if not fixed by the Court, at the rate of Rs. 50 per day of effective appearance-subject to maximum of Rs. 100 per case.

16. The fee for Counsel in criminal cases in courts other than those referred to in rule 15 shall when the hearing does not occupy more than three hours, Rs. 4 for every hour a fraction of an hour and Rs. 16 per day if the work lasts more than 3 hours, subject to a maximum of Rs. 75 per case except in regard to cases under section 488 of the Code of Criminal Procedure 1898, where the maximum shall be only Rs. 50.

17. The fees payable in the civil cases shall be as fixed by the Courts.

18. In cases not covered by rules 15 to 17, the Counsel shall be entitled to the payment of such fees as the Deputy Commissioners may consider reasonable and proper in consultation with District Judge keeping in view the nature of case and the volume of work—handled by the counsel provided that the limit of Rs. 100 in such cases is not exceeded.

19. *Countersignature by the Deputy Commissioner.*—Every bill of fees shall be submitted by the counsel for the countersignatures of the Deputy Commissioner of the District concerned. If the Deputy Commissioner is satisfied that the bill is in order, he shall countersign it and return to the District Welfare Officer who shall then draw the amount under the relevant head of account and make payment to the Counsel concerned.

20. *Counsel not to accept anything from a member of Scheduled Castes or Scheduled Tribes.*—Whilst an action or suit brought by or against a member of Scheduled Castes and Scheduled Tribes is being conducted in court by a counsel engaged under these rules, the counsel shall not take or agree to take or seek to obtain from such member of Scheduled Castes/ Scheduled Tribes any fee, profit, or reward for the conduct of the proceedings.

21. For the maintenance and submission of accounts etc. for the purpose of these rules, the Director of Welfare may prescribe such forms and registers as he/she may deem necessary.

22. *Panel of Advocates.*—The aid shall be extended through capable Advocates of whom a panel for each district shall be maintained by the Director of Welfare to be made available to conduct cases of the nature mentioned in rule 4.

23. Proposals for such panel of advocates for each districts shall be made by the District Welfare Officer in consultation with the Deputy Commissioner.

24. The register of cases for assistance and other connected record shall be made available to the Audit party at the time of local audit.

25. The Director of Welfare shall be competent authority to sanction the legal aid under these rules on the recommendations of District Welfare Committee.

26. Concurrence of the Finance Department has been obtained *vide* their U.O. No. 1943, dated 5th August, 1974.

ANNEXURE 'A'

APPLICATION FORM FOR THE GRANT OF LEGAL AID TO SCHEDULED CASTES AND SCHEDULED TRIBES IN HIMACHAL PRADESH

1. Name of applicant in Block Letters.
2. Father's name.
3. Permanent address.
4. Sub-caste/Tribe.
5. Annual income from all sources.
6. Source of income.
7. Purpose for which subsidy is required.
8. Amount of subsidy required.
9. Particulars of lawyer engaged.
10. Fees settled with the lawyer.
11. Fees already paid to the lawyer at the time of engagement.
12. Balance fees to be paid.
13. Name of court in which the case is pending.
14. Nature of the case.
15. Particulars of hearings with dates.
16. Present stage of the case.
17. Particulars of dependants in the family with earning of each, if any.
18. Name of the lawyer engaged by the other party, if any.
19. Any other information.

Signature of the applicant.

.....
 Village.....
 Tehsil.....
 P. O.....
 District.....

Recommendation of the District
 Attorney/Government Advocate.

*Signature of District Attorney/
 Government Advocate.*

N.B.—The applicant shall attach following certificates with the application:—

- (i) Himachali Certificate from a Magistrate.
- (ii) Caste/Tribe certificate from a Magistrate.
- (iii) Income Certificate from a Magistrate.

ANNEXURE 'B'

BOND FORM LEGAL AID

This agreement is made this.....day of19....., between the Governor, Himachal Pradesh acting through the Director of Welfare, Himachal Pradesh (hereinafter called the Governor which expression shall include his successors in Office) on the one part, and Shri.....s/o Shri....., resident of.....Tehsil.....District....., (hereinafter called the aided person) which expression shall, where the context so permits, include his heirs, executors administrator and representatives of the other part;

Whereas upon the application of the aided person the.....(hereinafter called the Director of Welfare) has by his order No....., dated.....made in pursuance of rules of the Himachal Pradesh Scheduled Castes (Legal Aid) Rules, 1974 (hereinafter referred to as the "Legal Aid Rules") sanctioned the grant of legal aid to the aided person for the purpose of.....

.....and to extent and on conditions herein specified, upon the further terms and conditions hereafter appearing;

Now, therefore, this Agreement witnesses as followed:

In consideration of the legal aid for the purpose cited above granted to the aided person by the Governor, the aided person hereby covenants with the Governor:—

- (i) that he shall diligently prosecute the suit/proceedings in connection with which aid is granted and shall furnish such information as may be required for that purpose by the legal practitioner provided for him under the rules.
- (ii) that he shall from time to time furnish to the District Welfare Officer such information and reports as the District Welfare Officer may require of him in respect of the progress of the suit/proceedings in connection with which aid has been granted;
- (iii) that he shall not enter into a compromise or withdraw from the suit/proceedings without the sanction of the Director of Welfare and shall abide by any conditions subject to which such sanction may be given by the Director of Welfare.

2. For the consideration aforesaid the aided person hereby creates and declares a charge on all the property money or costs which he may be entitled to recover under any decree or order which may be passed in his favour in the suit/proceeding in connection with which aid has

been granted to him and agree that the Governor may recover the cost of aid received by him out of any money property or costs which may be received or recovered by him in pursuance thereof.

3. The legal aid may at any time be withdrawn by the order of the Director of Welfare, if he is satisfied that the aided person has contravened or committed a breach of any of the conditions of this agreement or has failed without good cause to intimate or defend any proceedings in connection with which advice and assistance has been granted to him. Upon such withdrawal the cost of the aid received by the aided person shall be recoverable from him.

4. If the aided person contravenes or commits a breach of any of the conditions of this agreement, the Governor, may after giving the aided person a reasonable opportunity to show cause, impose upon him such penalty but not exceeding rupees one hundred only, as he may deem fit.

5. Any sum recoverable from the aided person hereunder may, without prejudice to any other remedy be recovered from him as arrears of Land Revenue.

In witness thereof the parties hereto, have signed this agreement on dates and year, respectively mentioned against their signatures.

.....
District Welfare Officer.

(On behalf of the Governor,
Himachal Pradesh).

Witnesses:

Dated

(i)

(ii)

Aided person.....

Dated

By order,
R. C. GUPTA,
Secretary.